



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 446

## IN THE MATTER OF HAROLD PARTAMIAN

### DISPOSITION AGREEMENT

This Disposition Agreement (Agreement) is entered into between the State Ethics Commission (Commission) and Harold Partamian (Mr. Partamian) pursuant to §5 of the Commission's **Enforcement Procedures**. This Agreement constitutes a consented to final Commission order enforceable in the Superior Court, pursuant to G.L. c. 268B §4(j).

On January 16, 1991, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, and the financial disclosure law, G.L. c. 268B, by Mr. Partamian. The Commission has concluded its inquiry and, on March 13, 1992, found reasonable cause to believe that Mr. Partamian had violated G.L. c. 268A and G.L. c. 268B.

The Commission and Mr. Partamian now agree to the following findings of fact and conclusions of law:

1. Mr. Partamian is the executive secretary of the state Board of Registration in Pharmacy (Board), a full-time, salaried position he has held since July 1987. Prior to becoming the Board executive secretary, Mr. Partamian was a pharmacy investigator for the state Division of Registration (Division), from 1980 until July 1987. As the Board executive secretary and as a pharmacy investigator, Mr. Partamian was at all times here relevant a state employee as that term is defined in G.L. c. 268A, §1(q).

2. In addition to his state employment, Mr. Partamian is a licensed pharmacist. Since 1982, Mr. Partamian has worked part-time (9:00 a.m. to 5:00 p.m. on Saturdays) as a pharmacist, first at the Hill View Pharmacy in North Reading, and since 1984 at a pharmacy in Woburn owned by Insta-Care Pharmacy Services Corporation (Insta-Care). From this private part-time work, Mr. Partamian has annually earned between \$5,000 and \$8,000 during the period here relevant.

3. In 1982, Mr. Partamian requested and received an Advisory Opinion (EC-COI-82-95) from the Commission concerning possible conflicts between his work for the Division and his part-time private employment. The Commission informed Mr. Partamian that he would be unable to participate as a Division investigator in any matters concerning the pharmacy for which he worked or concerning any of its geographical competitors. In 1987, when Mr. Partamian became the Board executive secretary, he asked the Commission to update the opinion previously issued to him. In a Commission staff letter dated June 19, 1987, the Legal Division of the Commission reaffirmed EC-COI-82-95 stating "... you must continue to refrain from participating as [the Board executive secretary] in any matter affecting either the pharmacy which employs you on Saturdays or its geographic competitors."

4. In 1986, Mr. Partamian, acting as a Division investigator, investigated a complaint which had been filed with the Division against Insta-Care. In 1987, Mr. Partamian, acting as a Division investigator, investigated a second matter concerning Insta-Care. Both the 1986 and 1987 matters were settled as recommended by Mr. Partamian. In August 1987, Mr. Partamian, acting as Board executive secretary, signed a report on behalf of the Board relating to a third investigation concerning Insta-Care indicating that the Board had resolved that investigation without a finding of a violation.

5. Except as otherwise provided in that section,<sup>1/</sup> §6 of G.L. c. 268A prohibits a state employee from participating as such in a particular matter in which, to his knowledge, a business organization by which he is employed has a financial interest. None of the exemptions provided in §6 is applicable in this case.

6. The two investigations concerning Insta-Care that Mr. Partamian conducted as a Division investigator in 1986 and 1987, and the third investigation concerning Insta-Care, the investigative report concerning which Mr. Partamian signed as the Board executive secretary in 1987, were particular matters within the meaning of G.L. c. 268A.<sup>2/</sup>

7. Mr. Partamian's part-time employer, Insta-Care, had a financial interest<sup>3/</sup> known to Mr. Partamian in each of the above-described particular matters concerning it, which were before the Board or were the subject of investigation by the Division, given that each involved investigations of Insta-Care which might have resulted in the Board's taking action prejudicial to Insta-Care's pharmacy business activities in the Commonwealth.

8. By, as a Division investigator, investigating matters concerning Insta-Care in 1986 and 1987, and by, as the Board executive secretary, signing an investigation report concerning Insta-Care on behalf of the Board in August 1987, Mr. Partamian participated<sup>4/</sup> officially as a state employee in matters in which, to his knowledge, his private employer had a financial interest. In so doing, Mr. Partamian violated G.L. c. 268A, §6.

9. As the Board executive secretary, Mr. Partamian annually files Statements of Financial Interests (SFIs) with the Commission, pursuant to G.L. c. 268B. On his 1987 and 1988 SFIs, Mr. Partamian did not disclose his part-time employment with Insta-Care or the income he derived from that part-time employment. This information omitted by Mr. Partamian from his 1987 and 1988 SFIs was information which was required to be reported on those forms, pursuant to G.L. c. 268B, §5(g)(1).<sup>5/</sup>

10. Section 7 of G.L. c. 268B prohibits the filing of a false SFI. A false SFI filing need not be willful or intentional to violate G.L. c. 268B, §7. The statute requires a commitment to a reasonable degree of care and diligence in filing SFIs. See *In re Logan*, 1981 SEC 40, 49. Mr. Partamian failed to exercise reasonable care and ordinary diligence by not disclosing the above-stated information. In so doing, Mr. Partamian violated G.L. c. 268B, §7.

In view of the foregoing violations of G.L. c. 268A and G.L. c. 268B by Mr. Partamian, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Mr. Partamian:

1. that Mr. Partamian pay to the Commission the sum of one thousand dollars (\$1,000.00) as a civil penalty for violating G.L. c. 268A;
2. that Mr. Partamian pay to the Commission the sum of five hundred dollars (\$500.00) as a civil penalty for violating G.L. c. 268B; and
3. that Mr. Partamian waive all rights to contest the findings of fact, conclusions of law, and terms and conditions contained in this Agreement in any other related administrative or judicial proceeding to which the Commission is or may be a party.

**Date: July 9, 1992**

<sup>1/</sup>Section 6 provides the following exemption for a state employee whose duties require participation in a particular matter in which there is a prohibited financial interest: (1) he must advise his appointing official and this Commission in writing of the nature and circumstances of the particular matter and make full disclosure of his financial interest; and (2) the appointing official should then assign the matter to another employee, assume responsibility for the matter, or make a written determination (and file it with this Commission) that the financial interest is not so substantial as to be deemed likely to affect the integrity of the employee's services.

<sup>2/</sup>"Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers,

duties, finances and property. G.L. c. 268A, §1(k).

<sup>3</sup>“Financial interest” means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. See *Graham v. McGrail*, 370 Mass. 133, 345 N.E. 2d 888 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. See *EC-COI-84-98*. The interest can be affected in either a positive or negative way. See *EC-COI-84-96*.

<sup>4</sup>“Participate” means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

<sup>5</sup>Mr. Partamian first reported his employment with Insta-Care and his earnings from that employment on his 1989 SFI, after he became the subject of investigation (by state law enforcement officials.)